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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,489	07/21/2006	Kenichi Yasusaka	2005_1605A	7257

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WENDEROTH, LIND & PONACK, L.L.P.
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EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1797

NOTIFICATION DATE	DELIVERY MODE
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05/18/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/552,489	Applicant(s) YASUSAKA ET AL.	
	Examiner Charles E. Cooley	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>SUB SPECIFICATION APPROVED NOTICE</u> |

FINAL OFFICE ACTION

- 1. This application remains assigned to Technology Center 1700, Art Unit 1797 and the following will apply for this application:**

Please direct all written correspondence with the correct application serial number for this application to **Art Unit 1797**.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

Drawings

3. The replacement sheets of drawings filed 16 FEB 2010 are approved.

Specification

4. The substitute specification filed 16 FEB 2010 is approved.
5. The substitute Abstract of the Disclosure filed 16 FEB 2010 is approved.
6. The amended title of the invention is approved.

Claim Rejections - 35 USC § 102

7. The terms used in this respect are given their broadest reasonable interpretation in their ordinary usage in context as they would be understood by one of ordinary skill in the art, in light of the written description in the specification, including the drawings, without reading into the claim any disclosed limitation or particular embodiment. See, e.g., *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000); *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321-22 (Fed. Cir. 1989).

The Examiner interprets claims as broadly as reasonable in view of the specification, but does not read limitations from the specification into a claim. *Elekta Instr. S.A.v.O.U.R. Sci. Int'l, Inc.*, 214 F.3d 1302, 1307 (Fed. Cir. 2000). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Newly presented claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by FULLER (US 2,615,199), previously of record.

The patent to FULLER '199 discloses a screw-type kneading/extruding machine in Figs. 1-2 and 19-20 comprising a cylinder 16 and/or 17 having a vent opening 44 or

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182; and a screw 1 or 2 rotatably inserted in the cylinder, the screw 1 or 2 having an upstream section 3, an intermediate section, and a downstream section as seen in Figs. 1-2; wherein the screw, from the intermediate portion toward the downstream section, includes an agitating portion (29 or 30 - the wider pitched flight section deemed equivalent to one or more of the variations of the agitating portion 6 of the invention described at p. 9, lines 5-8 of the original specification such as a feed screw piece 29 or 30 or rotary screw piece 29 or 30), a kneading/transporting portion (22 or 23 - the densely pitched section deemed equivalent to one or more of the variations of the kneading/transporting portion 7a of the invention described at p. 9, lines 8-10 of the original specification such as a full flight screw piece 22 or 23); and a plurality of screw pieces (31 or 32; 46 or 47 - Figures 1-2) or (156 or 157; 167 or 168 - Figures 19-20) capable of renewing a surface of a raw material per col. 3, lines 16-21; wherein the screw pieces are located at a position corresponding to the vent opening 44 (Fig. 1) or 182 (Fig. 20) such that the screw pieces are well within an axial length range of the vent opening as seen in Figs. 1 and 20, and wherein each of the screw pieces is formed of any one of a feed type kneading screw piece, a twist kneading screw piece, a rotary screw piece and a cut-flight screw piece with pieces 31 or 32 being rotary screw pieces; pieces 46 or 47 being feed type kneading screw pieces or rotary screw pieces; the pieces (156 or 157) and (167 or 168) being rotary screw pieces; and note cut-flight screw pieces are taught at col. 7, lines 41-45; the screw pieces (31 or 32; 46 or 47) or (156 or 157; 167 or 168) are disposed within an axial length range of 10 to 100% of the

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axial opening length of the vent opening as seen in Figs. 1 and 20; wherein the agitating portion 29 or 30 is located upstream of the vent opening as seen in Fig. 1.

With regard to new claim 5, although not reciting any structure, note the screw pieces of FULLER function to strongly agitate the raw material to allow volatile components of the raw material to be discharged from the vent opening (per col. 3, lines 16-21 and col. 7, lines 46-54). Furthermore, as held in *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967), "the manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself."

Allowable Subject Matter

10. No claims stand allowed.

Response to Amendment

11. Applicant's arguments with respect to the pending claims have been considered but are deemed to be moot in view of the new grounds of rejection necessitated by amendment (i.e., the cancellation of all original claims and introduction of new claims 3-6).

Conclusion

12. Applicant's amendment clearly necessitated the new grounds of rejection as noted in section (11). Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P.

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION. ANY RESPONSE FILED AFTER THE MAILING DATE OF THIS FINAL REJECTION WILL BE SUBJECT TO THE PROVISIONS OF MPEP 714.12 AND 714.13.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley in Art Unit 1797 whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri.. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles E. Cooley/

Charles E. Cooley
Primary Examiner
Art Unit 1797

14 May 2010